

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

| | | | |
|--------------|---|----------------------------|-------------------------|
| JAMES WACHT, | : | No. 4:07-CV-0998 | |
| Petitioner, | : | | |
| | : | (Judge Jones) | |
| v. | : | (Magistrate Judge Mannion) | |
| | : | | |
| RONALD HOLT, | : | | FILED |
| Respondent | : | | WILLIAMSPORT, PA |
| | : | | DEC 10 2007 |

MEMORANDUM

MARY E. D'ANDREA, CLERK
Per MEM
DEPUTY CLERK

December 10, 2007

Presently before the Court is the Report and Recommendation ("R&R") (Doc. 8) of Magistrate Judge Mannion, recommending that Petitioner James Wacht's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. 1) be dismissed. For the reasons set forth below, the Court will adopt the R&R in its entirety and dismiss the petition.

I. BACKGROUND

On May 31, 2007, Petitioner, formerly incarcerated at the United States Penitentiary-Canaan, filed a § 2241 petition challenging the loss of good-time credit. (Doc. 1.) On July 12, 2007, the Court issued an order to show cause to the Respondent. (Doc. 3.) On July 30, 2007, the show cause order mailed to Petitioner was returned as undeliverable. (Doc. 4.) On July 31, 2007, the Court

re-mailed the order to the last address for the Petitioner on file with the BOP. This mail was again returned as undeliverable on August 14, 2007. (Doc. 7). On September 17, 2007, the Court learned that Petitioner had been released from custody on June 14, 2007, fourteen days after he filed the instant petition. The Petitioner did not advise the Court that he had been released, nor did he provide the Clerk of Court with a new address.

II. DISCUSSION

The R&R, filed on November 5, 2007, recommends that the petition be dismissed as moot and for the failure of Petitioner to comply with Local Rule 83.18, requiring pro se parties to keep the clerk of the court informed of their current address. Petitioner has not filed any objections to the R&R, and the time for doing so has passed, *see* Local Rule 72.3.

When no objections are made to a Magistrate Judge's report and recommendation, the district court is not statutorily required to review the report before accepting it. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). According to the Third Circuit, however, "the better practice is to afford some level of review to dispositive legal issues raised by the report." *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). The Court's review of this case easily confirms the Magistrate Judge's determinations,

and although no reason has been presented to revisit them, the Court will briefly review the salient aspects of the report and recommendation.

First, the Court is without jurisdiction over the petition. A district court has jurisdiction over a habeas petition only if the petitioner is in custody. *See* 28 U.S.C. § 2241. Because Petitioner has already been released after serving his sentence, his petition presents no case or controversy over which this Court may exercise jurisdiction. *Spencer v. Kemna*, 523 U.S. 1, 7-14 (1998). Second, because his sentence has ended, and therefore, cannot be reduced by any good-conduct credit, Petitioner's request for relief is moot. Finally, in violation of Local Rule 83.18, Petitioner has not maintained his current address with the Court, and thus, has chosen to no longer participate in this action. For all these reasons, the Magistrate Judge correctly concluded that the instant petition should be dismissed. An appropriate order will issue.

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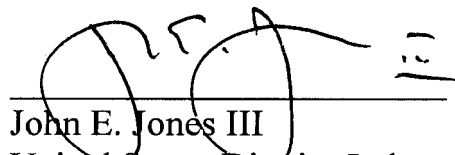
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| JAMES WACHT, | : | No. 4:07-CV-0998 |
| Petitioner, | : | |
| | : | (Judge Jones) |
| v. | : | (Magistrate Judge Mannion) |
| | : | |
| RONALD HOLT, | : | |
| Respondent | : | |

ORDER

December 10, 2007

In accordance with the Memorandum entered this day, it is hereby
ORDERED that:

1. The Report and Recommendation of Magistrate Judge Mannion (Doc. 8) is ADOPTED in its entirety.
2. Petitioner's Petition for Writ of Habeas Corpus Under Title 28 U.S.C. § 2241(Doc. 1) is DISMISSED with prejudice.
3. The Clerk of the Court is directed to CLOSE this case.



John E. Jones III
United States District Judge